

SECOND REGULAR SESSION

# SENATE BILL NO. 1126

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 12, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5011S.011

## AN ACT

To repeal section 324.1106 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session and section 324.1106 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, and to enact in lieu thereof one new section relating to private investigators.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 324.1106 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session and section 324.1106 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, are repealed and one new section enacted in lieu thereof, to be known as section 324.1106, to read as follows:

[324.1106. The following persons shall not be deemed to be engaging in the private investigator business:

(1) A person employed exclusively and regularly by one employer in connection only with the affairs of such employer and where there exists an employer-employee relationship;

(2) Any officer or employee of the United States, or of this state or a political subdivision thereof while engaged in the performance of the officer's or employee's official duties;

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

9           (3) Any employee, agent, or independent contractor  
10 employed by any government agency, division, or department of the  
11 state whose work relationship is established by a written contract  
12 while working within the scope of employment established under  
13 such contract;

14           (4) An attorney performing duties as an attorney, or an  
15 attorney's paralegal or employee retained by such attorney  
16 assisting in the performance of such duties or investigation on  
17 behalf of such attorney;

18           (5) A collection agency or an employee thereof while acting  
19 within the scope of employment, while making an investigation  
20 incidental to the business of the agency, including an investigation  
21 of the location of a debtor or a debtor's property where the contract  
22 with an assignor creditor is for the collection of claims owed or due,  
23 or asserted to be owed or due, or the equivalent thereof;

24           (6) Insurers and insurance producers licensed by the state,  
25 performing duties in connection with insurance transacted by them;

26           (7) Any bank subject to the jurisdiction of the director of  
27 the division of finance of the state of Missouri or the comptroller of  
28 currency of the United States;

29           (8) An insurance adjuster. For the purposes of sections  
30 324.1100 to 324.1148, an "insurance adjuster" means any person  
31 who receives any consideration, either directly or indirectly, for  
32 adjusting in the disposal of any claim under or in connection with  
33 a policy of insurance or engaging in soliciting insurance adjustment  
34 business;

35           (9) Any private fire investigator whose primary purpose of  
36 employment is the determination of the origin, nature, cause, or  
37 calculation of losses relevant to a fire;

38           (10) Employees of a not-for-profit organization or its  
39 affiliate or subsidiary, whether for-profit or not-for-profit, whose  
40 investigatory activities are limited to making and processing  
41 requests for criminal history records and other background  
42 information from state, federal, or local databases, including  
43 requests for employee background check information under section  
44 660.317, RSMo;

45 (11) Any real estate broker, real estate salesperson, or real  
46 estate appraiser acting within the scope of his or her license;

47 (12) Expert witnesses who have been certified or accredited  
48 by a national or state association associated with the expert's scope  
49 of expertise;

50 (13) Any person who does not hold themselves out to the  
51 public as a private investigator but is under contract with a state  
52 agency or political subdivision;

53 (14) Any person performing duties or conducting  
54 investigations relating to serving legal process when such person's  
55 investigation is incidental to the serving of legal process; or

56 (15) A consumer reporting agency is defined in 15 U.S.C.  
57 Section 1681(a) and its contract and salaried employees.]

324.1106. The following persons shall not be deemed to be engaging in the  
2 private investigator business:

3 (1) A person employed exclusively and regularly by one employer in  
4 connection only with the affairs of such employer and where there exists an  
5 employer-employee relationship;

6 (2) Any officer or employee of the United States, or of this state or a  
7 political subdivision thereof while engaged in the performance of the officer's or  
8 employee's official duties;

9 (3) Any employee, agent, or independent contractor employed by any  
10 government agency, division, or department of the state whose work relationship  
11 is established by a written contract while working within the scope of  
12 employment established under such contract;

13 (4) An attorney performing duties as an attorney, or an attorney's  
14 paralegal, **independent contractor**, or employee retained by such attorney  
15 assisting in the performance of such duties or investigation on behalf of such  
16 attorney;

17 (5) A collection agency or an employee thereof while acting within the  
18 scope of employment, while making an investigation incidental to the business of  
19 the agency, including an investigation of the location of a debtor or a debtor's  
20 property where the contract with an assignor creditor is for the collection of  
21 claims owed or due, or asserted to be owed or due, or the equivalent thereof;

22 (6) Insurers and insurance producers licensed by the state, performing  
23 duties in connection with insurance transacted by them;

24 (7) Any bank subject to the jurisdiction of the director of the division of  
25 finance of the state of Missouri or the comptroller of currency of the United  
26 States;

27 (8) An insurance adjuster. For the purposes of sections 324.1100 to  
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29 consideration, either directly or indirectly, for adjusting in the disposal of any  
30 claim under or in connection with a policy of insurance or engaging in soliciting  
31 insurance adjustment business;

32 (9) Any private fire investigator whose primary purpose of employment  
33 is the determination of the origin, nature, cause, or calculation of losses relevant  
34 to a fire;

35 (10) Employees of a not-for-profit organization or its affiliate or subsidiary  
36 who makes and processes requests on behalf of health care providers and  
37 facilities for employee criminal and other background information under section  
38 660.317, RSMo;

39 (11) Any real estate broker, real estate salesperson, or real estate  
40 appraiser acting within the scope of his or her license;

41 (12) Expert witnesses who have been certified or accredited by a national  
42 or state association associated with the expert's scope of expertise;

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44 private investigator but is under contract with a state agency or political  
45 subdivision; or

46 (14) Any person performing duties or conducting investigations relating  
47 to serving legal process when such person's investigation is incidental to the  
48 serving of legal process;

49 (15) A consumer reporting agency as defined in 15 U.S.C. Section 1681(a)  
50 and its contract and salaried employees.

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